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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 NOVELTY TEXTILE, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 SHOSHO FASHION, INC., a California
19 Corporation; and DOES 1-10,

20 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

21 NOVELTY TEXTILE, INC., by and through its undersigned attorneys, hereby
22 prays to this honorable Court for relief based on the following:

23 **JURISDICTION AND VENUE**

- 24 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C.,
25 §§ 101, *et seq.*

1 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
2 which therefore sues said Defendants by such fictitious names, and will seek leave to
3 amend this Complaint to show their true names and capacities when same have been
4 ascertained.

5 8. Plaintiff is informed and believes and thereon alleges that at all times
6 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
7 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
8 at all times acting within the scope of such agency, affiliation, alter-ego relationship
9 and/or employment; and actively participated in or subsequently ratified and adopted,
10 or both, each and all of the acts or conduct alleged, with full knowledge of all the
11 facts and circumstances, including, but not limited to, full knowledge of each and
12 every violation of Plaintiff's rights and the damages to Plaintiff proximately caused
13 thereby.

14 **CLAIMS RELATED TO DESIGN NO. 1690**

15 9. Plaintiff owns an original two-dimensional artwork used for purposes of
16 textile printing entitled 1690 (the "Subject Design"). The Subject Design is an
17 original work of authorship and is, and at all relevant times was, owned in exclusivity
18 by Plaintiff.

19 10. Plaintiff applied for and received a United States Copyright Registration
20 for the Subject Design prior to the commencement of this Action.

21 11. Prior to the acts complained of herein, Plaintiff widely disseminated
22 fabric bearing the Subject Design to numerous parties in the fashion and apparel
23 industries.

24 12. Plaintiff is informed and believes and thereon alleges that, following this
25 distribution of fabric bearing the Subject Design and without Plaintiff's authorization,
26 Defendants manufactured, distributed, and/or sold fabric and/or garments comprised
27 of fabric featuring a design which is identical or substantially similar to the Subject
28

Design (the “Subject Product”), including but not limited to garments sold at Love Culture retail stores under Style No. SS8161, bearing the label “ShoSho,” indicating that said garments were manufactured by, caused to be manufactured by, or supplied by SHOSHO, or DOE Defendants.

13. A comparison of the Subject Design and an exemplar of the Subject Product is displayed below:



14. It is apparent that the elements, composition, arrangement, layout, and appearance of the designs at issue are identical or substantially similar.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants)

1. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

1 2. Plaintiff is informed and believes and thereon alleges that Defendants,
2 and each of them, had access to the Subject Design, including, without limitation,
3 through (a) access to Plaintiff's showroom and/or design library; (b) access to
4 illegally distributed copies of the Subject Design by third-party vendors and/or DOE
5 Defendants, including without limitation international and/or overseas converters and
6 printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to
7 garments manufactured with fabric lawfully printed through Plaintiff.

8 3. Plaintiff is informed and believes and thereon alleges that one or more of
9 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
10 further informed and believes and thereon alleges that said Defendant(s) has an
11 ongoing business relationship with Defendant retailer, and each of them, and supplied
12 garments to said retailer, which garments infringed the Subject Design in that said
13 garments were composed of fabric which featured an unauthorized print design that
14 was identical or substantially similar to the Subject Design.

15 4. Plaintiff is informed and believes and thereon alleges that Defendants,
16 and each of them, infringed Plaintiff's copyright by creating, making and/or
17 developing directly infringing and/or derivative works from the Subject Design and
18 by producing, distributing and/or selling garments which infringe the Subject Design
19 through a network of retail stores and on-line outlets.

20 5. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
21 damages to its business in an amount to be established at trial.

22 6. Due to Defendants' acts of infringement, Plaintiff has suffered general
23 and special damages in an amount to be established at trial.

24 7. Due to Defendants' acts of copyright infringement as alleged herein,
25 Defendants, and each of them, have obtained direct and indirect profits they would
26 not otherwise have realized but for their infringement of the Subject Design. As such,
27 Plaintiff is entitled to disgorgement of Defendant's profits directly and indirectly

1 attributable to Defendant's infringement of the Subject Design in an amount to be
2 established at trial.

3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement - Against All
5 Defendants)

6 8. Plaintiff repeats, realleges and incorporates herein by reference as though
7 fully set forth the allegations contained in the preceding paragraphs of this
8 Complaint.

9 9. Plaintiff is informed and believes and thereon alleges that Defendants
10 knowingly induced, participated in, aided and abetted in and profited from the illegal
11 reproduction and/or subsequent sales of product featuring the Subject Design as
12 alleged hereinabove.

13 10. Plaintiff is informed and believes and thereon alleges that Defendants,
14 and each of them, are vicariously liable for the infringement alleged herein because
15 they had the right and ability to supervise the infringing conduct and because they
16 had a direct financial interest in the infringing conduct.

17 11. By reason of the Defendants', and each of their, acts of contributory and
18 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
19 suffer substantial damages to its business in an amount to be established at trial, as
20 well as additional general and special damages in an amount to be established at trial.

21 12. Due to Defendants' acts of copyright infringement as alleged herein,
22 Defendants, and each of them, have obtained direct and indirect profits they would
23 not otherwise have realized but for their infringement of the Subject Design. As such,
24 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly
25 attributable to Defendants' infringement of the Subject Design, in an amount to be
26 established at trial.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

1. **With Respect to Each Claim for Relief**

- a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. §§ 101, *et seq.*;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

A **TRIAL BY JURY** PURSUANT TO FED. R. CIV. P. 38 AND
CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

Dated: February 23, 2015

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
Novelty Textile, Inc.